

JUL - 7 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of) MM DOCKET NO. 93-151
)
THE REX COMPANY) File No. BR-831115UA
) File No. BR-900420YB
For Renewal of License of)
Station KBZB (AM), Bisbee, Arizona)

To: Administrative Law Judge
Walter C. Miller

MASS MEDIA BUREAU'S MOTION TO DISMISS

1. The Chief, Mass Media Bureau, by his attorney, hereby requests the Presiding Judge to dismiss the above-captioned renewal applications for failure to prosecute. In support whereof, the following is shown.

2. By Hearing Designation Order, FCC 93-272 (released June 10, 1993) ("HDO"), the Commission designated the above-captioned renewal applications of The Rex Company ("Rex"), licensee of Station KBZB (AM), Bisbee, Arizona, for hearing. The HDO, at ¶ 7 and pursuant to § 1.221(c) of the Commission's Rules, ordered Rex to file, within 20 days of the mailing of the HDO, a written notice of appearance.

3. Section 1.221(e) of the Commission's Rules states that a party which fails to timely file a notice of appearance shall, unless good cause for such failure is shown, forfeit its hearing

No. of Copies rec'd
List A B C D E

8476

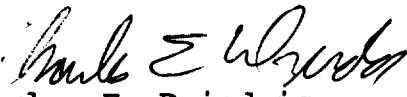
rights. Additionally, § 73.3568 of the Commission's Rules states that failure to prosecute an application will be cause for dismissal. In the case of an application which has been designated for hearing, such dismissal may be made with prejudice.


4. In the instant case, the 20-day deadline for filing a notice of appearance in this proceeding was June 30, 1993. Rex, however, appears not to have responded at all to the HDO. The Office of the Secretary has informed Bureau counsel that, as of the date of this filing, Rex has submitted neither a notice of appearance nor a good cause explanation for such failure. Moreover, the Bureau has not received service copies of any filings or any informal communications from Rex. Consequently, the only conclusion that can be drawn is that Rex has no present intention of prosecuting its applications for renewal of license of KBZB(AM).

5. Accordingly, pursuant to Section 73.3568 of the Commission's Rules, the Presiding Judge should issue an order dismissing the renewal applications with prejudice, directing

that the station's call letters be deleted, and terminating this proceeding.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau


Charles E. Dziedzic
Chief, Hearing Branch


Gary P. Schonman
Attorneys
Mass Media Bureau

Federal Communications Commission
2025 M Street, N.W.
Suite 7212
Washington, D.C. 20554
(202) 632-6402

July 7, 1993

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certify that I have, on this 7th day of July 1993, sent by First Class mail, U.S. Government frank, copies of the foregoing "Mass Media Bureau's Motion to Dismiss" to:

Marvin King
The Rex Company
1121 Plaza Azul
Sierra Vista, Arizona 85635

Michelle C. Mebane
Michelle C. Mebane